IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 436 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)

Versus

MOHAN TAPU - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner(s) : 1,
MR KR KOSHTI for Respondent(s) : 1,
MR BG PATANI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 21/09/2005

ORAL JUDGMENT

1. In the present petition, the petitioner S.T.Corporation has challenged the legality of an award

dated 24th December, 1998 passed by Labour Court, Junagadh in Reference (LCJ) No. 63/94. The petitioner has also challenged the order dated 18th October, 2000 by which the review application filed by the petitioner also came to be rejected by the Labour Court.

2. Before the Labour Court respondent workman who was earlier engaged as a conductor had approached challenging his dismissal from service pursuant to a departmental inquiry. The Labour Court was pleased to allow the reference and directed reinstatement of the workman with continuity and full back wages and other consequential benefits. Before the Labour Court neither the workman nor the S.T.Corporation led any evidence. The workman did not even examine himself as a witness nor did he lead any other evidence to sustain his claim. Despite this the Labour Court was pleased to set aside the punishment imposed by the employer pursuant to a departmental inquiry. When the workman had raised the Industrial Dispute and challenged the punishment imposed by the employer upon conclusion of the departmental inquiry, such a reference could not have been allowed without there being sufficient material on record to declare the punishment order as illegal. Without there being any

basis or material it was not open for the Labour Court to set aside the dismissal order and provide for reinstatement to the workman with full back wages. In the present form, therefore, the impugned award cannot be sustained. However, considering the fact that the question of livelihood of workman is concerned, I find it appropriate to give one opportunity to workman to produce necessary material before the Labour Court to substantiate his case.

3. In the result the petition is allowed by setting aside the impugned award dated 24th December, 1998 as well as the order passed in the review application on 18th October, 2000. The proceedings are remanded to the Labour Court for fresh consideration and disposal after permitting both sides to lead such evidence as they choose. With these directions petition is allowed to the above extent. No order as to costs. Record and proceedings be returned to the Labour Court.

(Akil Kureshi, J.)

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